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Letter submitted by the UNCAC Coalition, a non-governmental organization not in consultative status with the Economic and Social Council**

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UNCAC Coalition Letter to the UNCAC Implementation Review Group

21 May 2015

Dear Chair, Bureau, and Members of the UNCAC IRG,

On behalf of the UNCAC Coalition, I am writing with proposals regarding the UNCAC review mechanism and UNCAC processes.

The UN Convention against Corruption (UNCAC) is at an important turning point. As it celebrates its 10th year since entry into force and approaches the end of its first five-year review cycle it is time to assess its impact and determine the way forward, especially in light of how corruption feeds other global problems and presents obstacles to their solution.

There are some tangible results. We commend States Parties and the UN Office on Drugs and Crime (UNODC) for the steady progress in UNCAC implementation as well as in the UNCAC review process, which to date has produced 90 useful executive summaries, with many more reviews currently underway. We also commend States Parties and UNODC for the technical assistance provided to countries in need of it.

UNODC is more generally to be commended for its tireless work in supporting UNCAC implementation and monitoring. This includes its highly effective multi-stakeholder trainings for representatives of governments, civil society and the private sector, conducted jointly with the UNCAC Coalition and Transparency International.

However, countering corruption worldwide is a massive undertaking. While UNCAC has contributed to some progress, the results appear insufficient to stem the rising tide of corruption that affects every country. Given the scale of the challenge, much more is needed. Unless a serious allocation of resources is made to this endeavour, the results will be correspondingly inadequate. Without collaboration and trust between governments and civil society, anti-corruption efforts worldwide cannot succeed..

The UNCAC Coalition's proposals for increasing the impact of UNCAC are contained in its Statement for the 6th Conference of States Parties, submitted together with this letter. We highlight here three recommendations regarding the UNCAC review mechanism and UNCAC processes.

1. Increase civil society participation and transparency in national-level UNCAC processes

UNCAC recognises that addressing corruption requires comprehensive measures, including public participation and transparency. Corruption cannot be addressed in an environment of secrecy nor where civil society is excluded. Attempts to do so can never be credible or successful. Despite this, the phenomenon of "shrinking civic space" is increasingly well-known worldwide.

It is a serious flaw in the UNCAC review mechanism, that it makes it optional to consult with civil society in national reviews and to publish relevant information. There is a general lack of public information about the review process in many countries. Review schedules and focal points remain largely unknown and inaccessible to the public and civil society groups. Often only one or two civil society groups are invited to meet country review teams. The expected date of publication of the executive summary is not made known nor is there an announcement when it is published. Most countries have thus far not exercised the option of voluntary publication of country self-assessments and full review reports on the UNODC website. These deficiencies render UNCAC reviews much less effective than they could be.

Nevertheless, transparency and participation in country reviews appears to be gradually improving, as has occurred with review processes of other anti-corruption conventions. An increasing number of countries now publish information about the review while it is under way. In some countries more than one civil society organisation has been invited to meet reviewers during country visits. In others, civil society representatives have been included in multi-stakeholder committees. A slowly increasing number of governments have voluntarily published their full review reports (36 countries) and their self-assessments (13 countries) on the UNODC website. Moreover, we are advised that additional countries have published the full report on a government website, sometimes in the national language.

In light of the foregoing we recommend that the 6th COSP should:

- Adopt mandatory provisions on transparency and consultation with civil society for the second review cycle
- These should call for publication of relevant information about national level processes at all stages, from review schedule to date of publication of the review report.
- They should also call for meaningful consultation with civil society representatives at all stages.
- Countries still undergoing reviews in the first review cycle should be encouraged to opt for the highest standards of transparency and consultation. Those for which reviews have already been completed should be encouraged to publish their full review reports, if they have not already done so.

2. Introduce a follow-up process and ensure adequate technical assistance

The Conference of States Parties has (COSP) not thus far established a process to ensure timely country follow-up on the recommendations in UNCAC country reviews. Without such a process there is less chance that the recommendations will be acted upon, including recommendations about technical assistance needs. The benefit of the reviews may not be realised.

Follow-up is an integral part of the review processes of other anti-corruption conventions, such as the review mechanism for the Inter-American Convention against Corruption, the Council of Europe's

Group of States Against Corruption (GRECO) review process and the review process of the OECD Anti-Bribery Convention. This is for good reason.

It is welcome news that an increasing number of countries have taken the initiative to develop national action plans and introduce their own national processes, including multi-stakeholder consultations, to follow up on recommendations in UNCAC reviews. We commend the countries that have done so, which we understand include Colombia, Cuba, Malaysia, Mongolia, the Philippines, Tanzania, Zambia and Zimbabwe. We would welcome seeing other countries follow their good example. We also commend those countries that have provided technical and financial assistance to developing countries to help them to address challenges identified in their country reviews.

However, to keep momentum for the convention, it is crucial that an explicit follow-up process be included as an integral part of the review mechanism. It is important that this be done without delay, otherwise the benefits of the current review cycle may be lost. Moreover, civil society and other members of the public should have greater access to information about what technical assistance is being provided to countries to assist them in in meeting their UNCAC obligations, so that civil society groups can help support these initiatives.

In light of the foregoing we recommend that the 6th COSP should:

- Establish a follow-up process calling for States Parties to prepare and implement national action plans to respond to recommendations made in the country review reports.
- Action plans should be prepared within six months of the publication of the executive summary and submitted to UNODC, the two peer review countries and the UNCAC Implementation Review Group, as well as published on the UNODC website. The action plans should include information on technical assistance required.
- Countries should subsequently report on their progress in implementing their action plans and to make public information about what technical assistance is being provided.

3. Ensure civil society participation and transparency in international UNCAC processes

Civil society groups are currently excluded from participating as observers in sessions of the UNCAC IRG and other COSP subsidiary bodies created under UNCAC Article 63 due to objections raised by a handful of countries. With respect to the IRG, by agreement at the 4th session of the Conference of States Parties in Marrakech, a limited category of civil society representatives may each year attend a briefing "on the margins" of the IRG session. This arrangement allows for useful exchanges but is no substitute for observer status.

The exclusion of civil society is inconsistent with UNCAC and its rules, with international human rights standards and with the UN's stated values and objectives. UNCAC itself explicitly calls for civil society participation in anti-corruption efforts and the Terms of Reference for the UNCAC

Review Mechanism call for an inclusive UNCAC review process. The Rules of Procedure for the Conference of States Parties, in particular Rules 2 and 17, foresee NGO participation in UNCAC subsidiary bodies. Furthermore, the UN's Institutional Integrity Initiative calls for applying UNCAC --including Article 13- to the UN.

A 2014 report of the UN Special Rapporteur on Freedom of Association and Assembly noted that that the right to freedom of association and assembly also applies at the multilateral level and that multilateral organizations, like states, have responsibilities to maintain an enabling environment for civil society. The Special Rapporteur noted that the practice of excluding civil society organisations from UNCAC subsidiary bodies was at the bottom end of the spectrum among multilateral bodies.

In light of the foregoing we recommend that the Sixth COSP should, after plenary discussion:

- Confirm that in line with COSP rules of procedure 2 and 17, civil society organizations are entitled to participate as observers in in all COSP subsidiary bodies, including the Implementation Review Group and any UNCAC Working Groups.

We hope that you find these observations and recommendations useful and look forward to continued discussion with you on how to improve the UNCAC review mechanism, UNCAC processes and implementation of the UNCAC.

Manzoor Hasan
Chair
UNCAC Coalition